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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,935	01/12/2001	Jay B. Schiller	FSP0291	2760
88095	7590	06/15/2011	EXAMINER	
ARRIS			BROWN, RUEBEN M	
3871 Lakefield Drive			ART UNIT	PAPER NUMBER
Suwanee, GA 30024			2424	
			NOTIFICATION DATE	
			06/15/2011	DELIVERY MODE
				ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

[mirho@fspllc.com](mailto:mirho@fspllc.com)

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/759,935	SCHILLER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	REUBEN BROWN	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 March 2011.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 46-53 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 46-53 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date. _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments 3/28/11 have been fully considered but they are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 46-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Addington, (U.S. Pat # 7,246,366), in view of Komatsu, (U.S. PG-PUB 2003/0135862).

Considering claim 46, the claimed VOD system, comprising:

*'an application server to associate a unique modulator group identifier with one or more modulators that service a plurality of subscriber terminals, the modulator group identifier*

*unique to the one or more modulators*', Addington teaches a system that assigns modulators to subscribers HCT, based on the group that they are in, see col. 7, lines 31-67 thru col. 8, lines 1-65.

Regarding additionally claimed, '*server to receive from a requesting subscriber terminal the subscriber terminals request fro VOD data including the modulator group ID to extract and recognize the modulator group ID from the request fro VOD, to select only one or more modulators of the modulator group to pass the VOD data downstream to the requesting subscriber terminal*', even though Addington teaches that the HCT transmits the associated group ID to the headend, it is not clear that this is transmitted with a VOD request.

Nevertheless Komatsu, which is in the same field of endeavor, teaches that when a customer issues a request for a programming content that the STB transmits its VPI/VCI information to the headend, along with its request, which is used by the headend to determine the appropriate modulator, based on the group that the STB is in, see Para [0024, 0044-0045]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Addington with the feature of receiving at a headend, a network node number (i.e., a group ID) that is associated with a requesting terminal, along with each request for service, at least for the purpose ensuring the location of a subscriber terminal in the network, at the time of the service request, as taught by Komatsu.

It is pointed out the Komatsu is compatible with Addington, since it is also directed assigning each STB to a unique group and using a modulator based on the group that the STB is in, see Para [0052-0054].

*'data formatter to periodically transmit the group ID for a particular group along the associated physical transmission path'*, reads on the operation of Addington, col. 8, lines 31-36 & Komatsu [0024-0025]

Considering claims 47 & 51, see Addington, col. 7, lines 35-67, which discuss that the associated transport stream ID is communicated to the customer's HCT.

Considering claims 48-49 & 52-53, Addington teaches periodically transmitting the Group ID information, col. 8, lines 31-36, whereas the information may be sent as an MPEG stream, col. 7, lines 50-67.

Considering claim 50, the claimed method of providing VOD, corresponds with subject matter in claim 46 and is likewise treated.

Art Unit: 2424

**Any response to this action should be mailed to:**

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**or faxed to:**

(571) 273-8300, (for formal communications intended for entry)

**Or:**

(571) 273-7290 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on (571) 272-3011. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Reuben M. Brown/  
Patent Examiner, Art Unit 2424